

**BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

DANH LE TRAN
1384 Ashton Park Lane
Newbury Park, CA 91320
Optometrist License No. OPT 13824

Respondent.

Case No. CC 2012 8

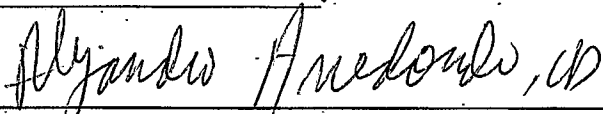
OAH No. 2013110166

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the State Board of Optometry, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 4, 2014

It is so ORDERED May 5, 2014



FOR THE STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
4 State Bar No. 207108
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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8 **BEFORE THE**
STATE BOARD OF OPTOMETRY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the First Amended Accusation
11 Against:

Case No. CC 2012 8

OAH No. 2013110166

12 **DANH LE TRAN**
13 **1384 Ashton Park Lane**
Newbury Park, CA 91320
14 **Optometrist License No. OPT 13824**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Mona Maggio (Complainant) is the Executive Officer of the State Board of
20 Optometry (Board). She brought this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Linda L. Sun,
22 Deputy Attorney General.

23 2. Danh Le Tran (Respondent) is represented in this proceeding by attorney Tracy
24 Green, Esq., whose address is 801 So. Figueroa Street, Suite 1200, Los Angeles, CA 90017.

25 3. On or about July 28, 2009, the Board issued Optometrist License No. OPT 13824 to
26 Respondent. The Optometrist License was in full force and effect at all times relevant to the
27 charges brought in First Amended Accusation No. CC 2012 8 and has expired on January 31,
28 2014.

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CONTINGENCY

10. This stipulation shall be subject to approval by the State Board of Optometry. Respondent understands and agrees that counsel for Complainant and the staff of the State Board of Optometry may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Optometrist License No. OPT 13824, issued to Respondent Danh Le Tran, is surrendered and accepted by the State Board of Optometry.

1. The surrender of Respondent's Optometrist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the State Board of Optometry.

3 2. Respondent shall lose all rights and privileges as an optometrist in California as of the
4 effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
10 effect at the time the petition is filed, and all of the charges and allegations contained in First
11 Amended Accusation No. CC 2012 8 shall be deemed to be true, correct and admitted by
12 Respondent when the Board determines whether to grant or deny the petition.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$11,752.50 prior to issuance of a new or reinstated license.

15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in First Amended Accusation No. CC
18 2012 8 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any
19 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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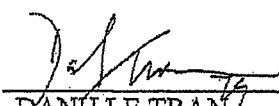
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Tracy Green, Esq.. I understand the stipulation and the effect it
4 will have on my Optometrist License. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 State Board of Optometry.

7
8 DATED: 3/6/14


9 DANH LE TRAN
Respondent

10 I have read and fully discussed with Respondent Danh Le Tran the terms and conditions
11 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
12 and content.

13 DATED: 3/6/14


14 TRACY GREEN, ESQ.
Attorney for Respondent

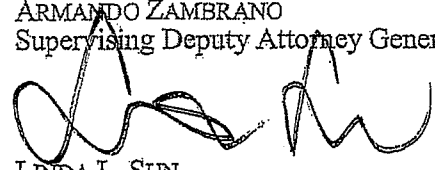
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16 ENDORSEMENT

17 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
18 for consideration by the State Board of Optometry of the Department of Consumer Affairs.

19 Dated:

Respectfully submitted,

20 KAMALA D. HARRIS
Attorney General of California
21 ARMANDO ZAMBRANO
Supervising Deputy Attorney General

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23 LINDA L. SUN
24 Deputy Attorney General
25 Attorneys for Complainant

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Exhibit A

First Amended Accusation No. CC 2012 8

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
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9 **STATE OF CALIFORNIA**

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11 In the Matter of the First Amended Accusation
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13 **DANH LE TRAN**
14 **1384 Ashton Park Lane**
Newbury Park, CA 91320

FIRST AMENDED ACCUSATION

15 **Optometrist License No. OPT 13824**

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the State Board of Optometry (Board), Department of Consumer Affairs.
23 2. On or about July 28, 2009, the Board issued Optometrist License Number OPT 13824
24 to Danh Le Tran (Respondent). The Optometrist License was in full force and effect at all times
25 relevant to the charges brought herein and has expired on January 31, 2014.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3090 of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board."

5. Section 3110 of the Code states:

"The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

....

"(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof"

6. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon

1 provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person
2 in an equivalent domestic relationship."

3 **COST RECOVERY PROVISION**

4 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Conviction of a Substantially Related Crime)

10 8. Respondent is subject to disciplinary action under Code sections 3090 and 3110,
11 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of
12 crimes substantially related to the qualifications, functions, and duties of an optometrist, as
13 follows:

14 a. On or about January 22, 2014, pursuant to his plea of *nolo contendere*, Respondent
15 was convicted of two misdemeanor counts of violating Penal Code section 647, subdivision (a)
16 [soliciting or engaging in lewd conduct] in the criminal proceeding entitled *The People of the*
17 *State of California v. Danh Le Tran* (Super. Ct. Los Angeles County, 2013, No. 2AV01542.) The
18 Court sentenced Respondent to serve 1 day in jail, ordered him to surrender his optometrist
19 license and to stay away from J.B. and R.R., and placed him on probation for a period of 36
20 months. The circumstances are as follows:

21 b. On or about February 29, 2012, while employed as an optometrist in the Optometry
22 Department of the Target Store in Palmdale, Respondent willfully and unlawfully touched an
23 intimate part of Patient J.B. against her will while conducting an eye examination.

24 c. On or about February 14, 2012, while employed as an optometrist in the Optometry
25 Department of the Target Store in Palmdale, Respondent willfully and unlawfully touched an
26 intimate part of Patient R.R. against her will while conducting an eye examination.

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